

**Commonwealth of Kentucky
Department of Workers' Claims
Office of the Commissioner**

“BULLETIN”

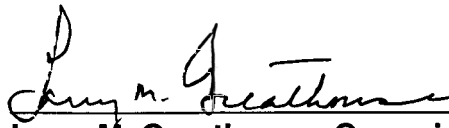
**RE: Workers' Compensation Coverage for Healthcare Workers
Receiving Smallpox Vaccinations**

The Department of Workers' Claims has received various inquiries regarding the compensability of healthcare workers who may suffer adverse reactions after receiving smallpox vaccinations in conjunction with the Homeland Security Act. While it is clear that only a very few of the several thousand healthcare workers receiving the vaccination would have any adverse effect, the situation may arise. And, though a uniform national solution to this concern is being debated, it is essential that guidance be offered to Kentucky healthcare and medical response teams who volunteer to receive the smallpox vaccination.

Ultimately, if a healthcare worker suffers a vaccination related reaction and files a contested claim, compensability under Kentucky's workers' compensation law would have to be decided by an administrative law judge. With that caveat stated, the Department of Workers' Claims would offer the initial opinion that as the smallpox vaccinations have a direct benefit to the healthcare employer, and are encouraged through the Homeland Security Act to protect healthcare workers from exposure to affected individuals in the event of a bioterrorism attack, it would appear that, in general, such employees would be covered for purposes of workers' compensation benefits.

Again, this statement is the general position of the Department and as before noted would have to be decided through an adjudication process if a claim is filed and the employer denies benefits. As circumstances regarding the voluntary nature of the vaccination, the benefit to the employer of the employee receiving the vaccination and other related issues may vary, compensability can only be determined on a case-by-case basis.

This 24th day of January, 2003.


Larry M. Greathouse, Commissioner